

MINUTES OF HARRISONBURG PLANNING COMMISSION

June 10, 2009

The Harrisonburg Planning Commission held its regular meeting on Wednesday, June 10, 2009, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Jared Burden, Charles Chenault, Muawia Da'Mes, Alan Finks, and J.M. Snell.

Members absent: Bill Jones

Also present: Stacy Turner, Director of Planning and Community Development; Adam Fletcher, City Planner; Alison Banks, Planner and Secretary.

Chairman Burden called the meeting to order and determined a quorum with six of seven members in attendance. He then asked for review and approval of the minutes from the May 13, 2009 Planning Commission meeting.

Mr. Chenault moved to approve the minutes from the May 13, 2009 meeting.

Mr. Snell seconded the motion.

All voted in favor of approving the minutes. (6-0)

New Business

Preliminary Plat – Variance Request Lots 49 & 50 Norwood Street (Kettelkamp)

Chairman Burden read the first item of business and asked for staff to review.

At this time Mr. Chenault recused himself and left the council chambers.

Mrs. Banks said the Comprehensive Plan designates this area as Medium-Density Residential. This designation states that these areas are near major thoroughfares or commercial areas. They contain a variety of housing types such as single-family, duplex, and two or three story apartments and densities can range from 1 to 15 units per acre.

The following land uses are located on and adjacent to the property:

Site: Vacant land, zoned R-3

North: Across Norwood Street, apartment dwelling, zoned R-3

East: Single-family dwelling, zoned R-3

South: Vacant land, zoned B-2

West: Single-family dwelling, zoned R-3

The applicant is requesting to preliminarily subdivide two parcels into three lots with four variances requested from the Subdivision Ordinance. The four variances are associated with right-of-way dedication and required street improvements. If approved, the applicant proposes to construct three townhouse units on the new lots.

Planning Commission first considered this request in April. In review, the applicant requested a variance from the following sections of the Subdivision Ordinance:

- Section 10-2-45, which requires the applicant, when subdividing, to dedicate all land designated for future street widening to public use;
- Section 10-2-41, which provides design standards for streets and alleys and specifically, sub-section (i) (3) which denotes the width for minor streets, such as Norwood Street, which should be 50 feet of right-of-way. (At present, this section of Norwood Street has a 30-foot right-of-way, and for this particular situation the applicant must dedicate 10 feet along the frontage);
- Section 10-2-66, which states street improvements shall be provided with each new subdivision in accordance with standards and specifications of the City; and
- Section 10-2-67, which states the street improvements shall be installed by the applicant, at their expense.

Staff was only supportive of two of the variances the applicant requested, Section 10-2-66 and 10-2-67, stating that the City would like the improvements to be completed in a more comprehensive approach. Because the dedication of right-of-way is consistent with other subdivision requests in this area and throughout the City, staff does not feel a variance to Sections 10-2-41 (i)(3) and 10-2-45 is warranted.

As stated earlier, the applicant desires to create three townhouse lots at this location. Townhouses are designed to permit individual and separate ownership of each lot and the R-3 zoning regulations require each separate townhouse lot to have at least 2,000 square feet of lot area, 18 feet of lot width, and 112 feet of lot depth. In this case, if the applicant dedicates the 10 feet of right-of-way, he would not have enough lot depth to meet the requirement of 112 feet; therefore he cannot construct townhouses. The dedication of right-of-way would also reduce the lot area so that there is not enough available area left to meet the requirement for the construction of a three unit apartment building. There are other options for construction, such as not subdividing and constructing two single-family dwellings on the existing two lots, or constructing a duplex on the site regardless of whether it is resubdivided. The applicant has stated that such dwellings are not cost effective for this location and three dwelling units would be more likely to sell.

In April, Planning Commission recommended approving the variance requests from Section 10-2-66 and 10-2-67 of the Subdivision Ordinance and recommended denying the variance requests from Section 10-2-41 (i)(3) and 10-2-45, which requires the dedication of right-of-way. In May, the request moved forward to City Council where the applicant changed the request by stating he would establish an agreement with the City that would require either he, or future owners, to dedicate right-of-way to the City at no cost. The new proposal would allow the construction and the maximization of the density while also ensuring the City the right-of-way needed for the future. As this proposal had not been reviewed by staff or Planning Commission, City Council made a motion to return the request to the Planning Commission for further review.

Because the proposed request of future dedication is a deviation from the Subdivision Ordinance regulation of providing the right-of-way at the time of subdividing, the applicant continues to request all four variances. Staff maintains support for the variances from Section 10-2-66 and 10-2-67 to not construct street improvements along this section of Norwood Street. The applicant would, however, be required to install curbing and standard entrances into the property. If approved, staff will continue to work with the applicant to determine the best ingress and egress mechanism while still ensuring it would meet City standards if a future right-of-way dedication takes place.

The new proposal to dedicate right-of-way in the future would keep the required 112 foot lot depth for all three proposed lots and it would allow construction of the three townhomes as desired. The

applicant intends to place the townhomes 44 to 45 feet back from the existing property line; this would be enough to meet the 30-foot front setback requirement even after the 10 feet of right-of-way was dedicated. However, once the 10 feet is granted to the City, two of the townhouse lots would become non-conforming to lot depth. The third northern most lot would be very close to conformity; a survey would be needed to see if the requirement could be met. Parking for the development would be available within the entire front setback area of the site. Staff has some concerns with the aisle width for maneuvering cars out of the parking spaces. The site drawing provided by the applicant shows the travel width varies from about 13 feet to 17 feet and does not appear to be wide enough to maneuver a car out of a 90⁰ parking space, especially for the spaces on the edge of the property. The Zoning Ordinance states that public right-of-way shall not be used to maneuver vehicles in and out of parking spaces; therefore, the proposed future right-of-way should not be considered as part of the maneuvering area.

The layout provided by the applicant shows a 10 foot strip of land to be dedicated to the City upon request and an accompanying letter states that if the subdivision is approved the following conditions would apply:

- a) (The owner) will dedicate and/or convey to the City upon its request and without charge a 10-foot wide strip of land along Norwood Street for the purpose of widening Norwood Street. This strip is shown on the attached site plan and will be further shown on the final subdivision plat; and
- b) simultaneously with the dedication described in (a) above, it will convey to the City an additional 10 foot wide utility easement along Norwood Street according to the City's subdivision ordinance.

These conditions would be recorded and would be binding on the current owner as well as all subsequent owners. Staff has discussed this scenario with the City Attorney and he confirmed that if the conditions are prepared within an instrument that is recorded along with the plat the City could enforce them.

The applicant has also proposed numerous architectural features with regard to the design of the buildings. This information is included; however, there is no mechanism in which the City can enforce any of these design elements.

The April staff report noted the applicant had questioned whether the City would allow a 10-foot easement in place of the right-of-way dedication for future street improvements. There are special circumstances when the Public Works Department has determined it would be appropriate to allow sidewalks and similar infrastructure within easements. However, Public Works does not want to begin allowing public streets within easements; such as would be the situation for these properties along Norwood Street.

Staff has concerns with allowing a subdivision that would, at some point, place the parcels into non-conformancy to lot depth and possibly parking requirements. Staff continues to object to a variance that would deviate from the requirements to dedicate right-of-way at the time of subdividing simply to maximize density, and therefore, recommends denial of the preliminary plat as presented.

Chairman Burden asked if there were any questions for staff. Hearing none, he said this is not a public hearing; however, if the applicant would like to speak they may do so.

Mr. Scott Kettlekamp, 631 East Rock Street, said the idea of this information, the future dedication of right-of-way to be given to the City at no charge, being included on the preliminary actually came from Section 10-2-45 in the land dedication section of the Subdivision Ordinance. It reads

“all land designated for future streets and alley purposes or for street widening shall be dedicated for public use. Where proposed sites for parks, schools, and other areas for public use as contained in the comprehensive plan are located wholly or partly in a subdivision, such location shall be indicated on the preliminary plat in order that it may be determined if, when, and in what manner such areas will be dedicated to, reserved for or acquired by the city council for use”. So the idea for this future dedication came from the “if, when and in what manner” the land would be dedicated. In speaking to Mr. Fletcher, he said that it is actually two separate sections; the first sentence is one section, and the second sentence, that discusses parks, schools, and so forth, is a separate section. I do agree with that, but I just wanted to point this out to you, because it is not something I just came up with. As the site plan shows, without the dedication there is enough area to do 90 degree parking. This site plan shows a sidewalk in the center along Norwood, which at one point I was planning on doing; however, as it is now, I would actually not be doing a sidewalk, just a three foot strip of land for mailboxes. Every one of the lots has twenty feet or more in between the parking spaces and the three foot strip of land, this would be enough for a two-way travelway for the townhouses. Technically, once dedication does take place, the area cannot be used for maneuvering a vehicle, but my argument is that 13 to 17 feet is enough for one-way traffic; right from the beginning it will be used as one-way. In speaking with the City Engineer, I will be doing entrances that conform to standard for if and when right-of-way is dedicated. That is all I have, but I can answer any questions you may have.

Mr. Snell said you are asking for two variances that staff is not in support of, in order to build these row homes. You have supplied us with some rather nice pictures and ideas for a typical, larger city infill project. Can you explain why you want to do these three townhomes versus some other type of high density, such as apartments or condos; what is your reason for townhomes?

Mr. Kettlekamp said unfortunately, it is very close for lot size and apartments and condos, but I cannot recall what the exact issue was.

Mrs. Banks said in order to construct apartments at this location you would still need to subdivide in order to vacate the interior lot line and create one lot. That would bump you into the need for dedicating right-of-way and you would lose the necessary square footage in order to construct apartments. Each apartment unit would require 3,000 square feet of lot area.

Mr. Snell asked if the existing property line was right in the center of the two lots.

Mr. Kettlekamp replied yes.

Mr. Snell said for three apartments you would need 9,000 square feet of lot area, you have roughly 9,400 square feet; but you would lose 800 square feet if you dedicated right-of-way.

Mr. Kettlekamp said for me, I would rather have the three individual units, as opposed to three apartments. It is just a better opportunity for low income housing for this area of the City.

Mr. Snell asked what the estimated price point for the units would be.

Mr. Kettlekamp answered that could vary from now until construction; but I was hoping to keep them in the \$180,000 range.

Mr. Snell said these are large units.

Mr. Kettlekamp said yes, they are significantly larger than other homes along that street. They are 1,500 square feet, three bedrooms, and two and one half bath. The average for other homes along that street is about 700 square feet, two bedrooms, and one bath.

Chairman Burden asked if there were any further questions for Mr. Kettlekamp. Hearing none, he asked the Planning Commission for further discussion or a motion.

Mr. Snell said he appreciated and liked the additional information the applicant provided at this time. I still think that this is a good infill project and I can support the idea. We are talking only a matter of feet here and the difference between right-of-way and an easement. It is hard for me to get comfortable with the difference between the two, right-of-way and easement. Public Works does not want the actual street to be in an easement, yet the same public access can be in an easement for sidewalks, parks and playgrounds. This just makes sense to me to grant this variance for this project. I would be interested to hear other Planning Commissioners' opinions.

Mr. Baugh said I do not see where this is a whole lot different than where we were before on this request. I am a little troubled with the concept of having to set up some type of an index for one property. At some point down the road, somebody will need to remember that we, the City, can go get this right-of-way because it has already been dedicated. I have a way of thinking that sometimes, things like this have a way of slipping through the crack. Again, I essentially think this is the same project we looked at before. The applicant can get two units in there and he wants to get three. I understand that, but I do not think it is a good enough reason to grant a variance. I intend to vote as I did before on this. To do this and know that you are creating possibly three non-conforming lots in the future does not strike me as a very good idea.

Mr. Finks said I understand why Mr. Kettlekamp wants to do this, but I am right there with Mr. Baugh. If we make an exception here, where is the next and so forth.

Chairman Burden said the issue with parking is that staff does not want this right-of-way area used, or does it derive from code.

Mrs. Banks replied it is part of the Zoning Ordinance. It is within the parking regulations that you cannot use the right-of-way to maneuver your vehicle.

Chairman Burden said it seems to me that it would be physically impossible not to use the right-of-way, especially on the right side.

Mrs. Turner said unless the people who park in those spaces consistently have very compact cars.

Chairman Burden asked if the granting of this variance inherently gives a variance from the parking requirement.

Mrs. Banks responded no.

Mr. Da'Mes said in terms of the project itself, I really like the concept and the idea of taking this area and upgrading it significantly. This builder has taken the neighboring property and built a nice conforming use. However, as somebody who believes in the Comprehensive Plan and land ordinances, this use just simply does not fit. That is unfortunate, because it is a great infill project; but to try to force something that does not fit, just does not make sense to me and I have not seen anything to compel me otherwise.

Chairman Burden said it is unfortunate and the practical way that the project fails is just the lot depth on two, possibly all three.

Mr. Snell said the exact same structure could be built by right in a quantity of two and not have the same hurdles or issues. The applicant said he wanted to build infill houses and target a troubled neighborhood; the exact same project in a quantity of two raises the cost of those two houses by roughly fifty percent. Land costs in the City are escalating and anything we can do to improve neighborhoods, without damaging neighborhoods, I feel is appropriate. To me the justification for

two versus three is affordability for that neighborhood; it is not exactly the most desired neighborhood in the City to live in.

Mr. Baugh said the same applicant has constructed a single-family right next to this project.

Chairman Burden asked if there was a motion on this request.

Mr. Baugh moved for a favorable recommendation on the preliminary plat and a favorable recommendation for the variances requested from 10-2-66 and 10-2-67.

Mr. Fletcher said staff has discussed this and probably the most appropriate way to make a recommendation to City Council would be to act specifically on the way the application was presented, rather than picking out those variances specifically to approve. If you read the staff report, you will see that we said we recommend denial as requested and that may be the best way to approach this.

Mr. Baugh recommended denial of the preliminary plat with variances as presented.

Mr. Finks seconded the motion.

Chairman Burden asked if there was any discussion on the motion.

Mr. Da'Mes asked what plan "B" would be if this does not get approved; has staff discussed this with the applicant.

Mr. Fletcher said he still has the option of building two single-family homes or a duplex. You can only do three townhomes with a variance or you could do three apartments with a different variance request.

Mr. Baugh said he purchased two lots and he can still construct what you are allowed to on two lots.

Chairman Burden asked for a roll call vote on the motion.

Commissioner Finks – yes.

Vice Mayor Baugh – yes.

Commissioner Da'Mes – yes.

Commissioner Snell – no.

Chairman Burden – no.

Chairman Burden said the motion to recommend denial carries (3-2) and this will move forward to City Council on July 14th.

At this time Mr. Chenault returned to the room.

Preliminary Plat – Community Street Variances (Hill Group Properties)

Chairman Burden read the request and asked for staff to review.

Mr. Fletcher said Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office / service uses allowing people to both live and work in the same area.

The following land uses are located on and adjacent to the property:

- Site: Six dwelling structures located upon three lots, zoned B-1
- North: Single family home, zoned B-1
- East: Across Community Street, barber shop and dwelling units, zoned B-1
- South: Vacant lot and dwelling units, zoned B-1
- West: Across old North Mason Street and North Mason Street, commercial uses, zoned B-1

The applicant is requesting to preliminarily subdivide three lots, zoned B-1, Central Business District, into six lots. The properties, which include three single family structures, three duplexes (one of which was recently destroyed by a fire), and several outbuildings, are located within the block bordered by Community Street, East Wolfe Street, old North Mason Street, and East Rock Street. The purpose of the subdivision is to place each dwelling structure on its own lot. The applicant is also requesting variances to deviate from the requirements of Sections 10-2-41 (i) (3), 10-2-45, 10-2-66, and 10-2-67 of the Subdivision Ordinance, which require the dedication of right-of-way and any necessary street improvements.

After submitting an application to subdivide these properties through an administrative minor subdivision process, staff notified the property owner that both Community Street and old North Mason Street did not have the required 50 feet of right-of-way or the required street infrastructure, and therefore would be required to dedicate the necessary right-of-way and build the street improvements. However, given the fact that the subject property has existing structures that are situated approximately three to six feet from the property line and due to the unusual layout and use of old North Mason Street, staff understood this subdivision was unique and unlike similar variance requests.

Currently, Community Street has 25 feet of right-of-way with about 15 feet of pavement; sidewalk exists only along the frontage of the applicant’s frontage, and the street has no curb or guttering. In this particular situation, the applicant would be required to dedicate 12.5 feet of right-of-way and widen the street to help accommodate 30-feet of pavement with curb, guttering, and a five-foot sidewalk along with a two foot grass strip. However, because the buildings sit so close to the front property line, the property owner could not dedicate the required amount right-of-way without removing the existing structures. The applicant, however, has pledged to dedicate right-of-way close to the existing porch foundations, which is what staff recommended. Due to the structures’ skewed alignments to the street, the applicant will dedicate variable widths of property to the City to help accommodate future street improvements; widths will vary from 3.4-feet to 5.5-feet. Staff recommends, as we have with other requests, for the applicant to receive the variance to not build the street improvements to allow future improvements to occur comprehensively.

On the other side of the block, the applicant has about 162 feet of property frontage along old North Mason Street. This one-way street is a remnant portion of the original street that was improved and relocated in the early 1960’s to make way for the four-lane section of what is now North Mason Street. The City owns the right-of-way of old North Mason Street, the right-of-way that

encompasses North Mason Street, and the triangular shaped parcel between these streets; therefore, the City does not necessarily need additional right-of-way dedicated along this frontage. However, staff suggested the applicant dedicate right-of-way to ensure all areas of the existing sidewalk be included in public property. The plat illustrates where the applicant is dedicating small variable widths to the City to accommodate that request. Additionally, due to the unusual use of this one-way street, staff is also requesting the applicant receive the same variance to not build the standard street improvements for this small, uncommon street.

Since the properties are zoned B-1, there are no area or dimensional requirements and no setback requirements; and other than the above requested variances, the proposed request meets all other subdivision requirements. The applicant should be aware however, since they are planning to reconstruct the structure damaged by the recent fire, the proposed property boundary location, to the north of that building, is important to specific requirements of the Building Code. Once they finalize the location of that property boundary, the applicant should work with the Building Division to determine if they are required to meet specific Building Code requirements such as increased rating protection.

Staff supports this preliminary plat and the four variance requests to deviate from Sections 10-2-42 (i) (3), 10-2-45, 10-2-66, and 10-2-67 with the condition that the applicant dedicates right-of-way as shown on the preliminary plat along Community Street and along old North Mason Street.

Chairman Burden asked if there were any questions for staff. Hearing none, he said this is not a public hearing; however, he asked the applicant or applicant's representative if they would like to speak. Hearing none, he asked staff to state the reasons why they are comfortable with this plat and the changes as recommended.

Mr. Fletcher responded because of the existing situations, it is a little unrealistic to ask them to remove existing structures in order to dedicate the necessary right-of-way, unlike the last situation which was a vacant piece of property. This is prime B-1 property and I would be hesitant to think that the City would not request the dedication of right-of-way if the developer were to do a comprehensive redevelopment of the entire block. If something were to happen and they did remove the structures and went through the site plan review process, my guess is that the Public Works Department and Engineering Staff would work with them to comprehensively improve Community Street in this area. The way that Old North Mason Street is currently being used, as a one way street, or driveway to the existing units and the way that Community Street is now being used, in staff's opinion the variances in this situation are valid.

Mr. Baugh said he is prepared to support this. It is a B-1 area, an area that inherently has that kind of flexibility to it.

Mr. Chenault said he too is in support. At first he had some setback concerns; but if you look at Route 42 when it was widened to four lanes, the sidewalk is right up against the front porch of homes and it functions pretty well. I do not have an issue with this.

Mrs. Turner asked if the applicant was also requesting a variance from easements under Section 10-2-43, to not have an easement along the front property line.

Mr. Fletcher said that is not part of the application.

Mrs. Turner said with this plat they are not intending to provide them, because that would be an easement where their buildings are located. Do we need include this request?

Mr. Fletcher said the way the City Surveyor and I have looked at these particular situations when subdividing or vacating property lines in old neighborhoods, is that the easement is not necessarily needed because those utilities already exists.

Mrs. Turner said I knew we had done that administratively for some of the older neighborhood subdivisions; however, I did not know if you had talked about whether this variance needed to be added to this request.

Mr. Fletcher said to be honest, it never came up and I had looked at it as an older neighborhood with utilities already existing. If this is more comprehensively redeveloped, then everything would probably go underground and easements would need to be established at that time.

Mrs. Turner said we probably need to point out that the applicant is not observing that requirement as well.

Mr. Snell moved to approve the preliminary plat with the variances requested and to include an additional variance to Section 10-2-43 dealing with easements for utilities.

Mr. Finks seconded the motion.

All voted in favor of the motion (6-0) to recommend approval of the preliminary plat with variances.

Chairman Burden said this will move forward to City Council on July 14th.

Rezoning – 125 West Water Street (Lowry)

Chairman Burden read the request and asked staff for comments.

Mr. Fletcher said the Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office / service uses allowing people to both live and work in the same area.

The following land uses are located on and adjacent to the property:

Site: Non-conforming retail businesses, zoned M-1

North: Across West Water Street, jail facility, zoned B-1

East: Parking lot for Rosetta Stone building currently under renovation, zoned B-1

South: Parking lot for Rosetta Stone building currently under renovations, zoned B-1

West: Across Norfolk Southern Railroad, non-conforming dwelling unit, zoned M-1

The applicant is requesting to rezone a 3,249 square foot parcel along West Water Street from M-1, General Industrial District to B-1, Central Business District. Currently, the property is non-conforming to land use, setback regulations, and parking requirements. Approving this request would bring the property into zoning conformance.

The initiating reason the property owner applied to rezone their parcel was due to a complication they had with a minor subdivision to swap square footage between their lot and the Rosetta Stone parcel that surrounds their property on two sides. Staff could not approve the minor subdivision because it was unable to meet all of the requirements of the Subdivision Ordinance, which related to the Zoning Ordinance’s setback regulations. In short, the minor subdivision would have adjusted two property boundaries, one of which was the only property boundary that currently met setback

regulations, and therefore could not be approved. Staff informed the applicant the only way to make the minor subdivision work was if their property was zoned B-1. At the same time, staff also informed the applicant that their property was non-conforming to land use, setback regulations (on three sides), and to the requirements of the parking regulations. In fact, it would be extremely difficult, if not impossible for the property to provide the necessary amount of parking for any use due to the size and layout of their lot. Staff explained to the property owner that rezoning their parcel would not only allow them to proceed with their subdivision but it would also bring their property entirely into zoning conformance.

Staff has no concerns with this rezoning application and believes that it would make the property more viable for the existing and future land use potential. The proposal is consistent with the recent rezoning of the Rosetta Stone property, and as illustrated by the Comprehensive Plan, it falls within the Downtown Revitalization Area while also complying with the Comprehensive Plan's land use designation. Staff supports the request as presented and a favorable recommendation to City Council.

Chairman Burden asked if there were any questions for staff. Hearing none, he opened the public hearing and asked the applicant or applicant's representative to speak.

Mr. Welby Showalter, 66 West Water Street, said he is the attorney for the applicant. I have nothing to add to the staff report, but I am open to any questions you may have.

Chairman Burden asked if there were any questions for Mr. Showalter. Hearing none, he asked if there was anyone wanting to speak in favor of the rezoning request. Hearing none, he asked if there was anyone wanting to speak in opposition of the request. Hearing none, he closed the public hearing and asked Planning Commission for comments or discussion.

Mr. Chenault said the case for this is so compelling; I make a motion to recommend approval of the rezoning request at 125 West Water Street.

Mr. Baugh seconded the motion.

Chairman Burden said this makes about as much sense as anything I have ever seen come before Planning Commission. He then called for a voice vote on the motion.

All voted in favor of the motion (6-0) to recommend approval of the rezoning request.

Chairman Burden said this request will move forward to City Council on July 14th.

Master Plan Amendment – VMRC (Woodland Facility 2009)

Chairman Burden read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Institutional. These lands are designated for development by certain nonprofit and public institutional uses such as colleges and universities, hospitals, offices of nonprofit organizations, community assembly uses and institutions which provide for the shelter and care of people.

The following land uses are located on and adjacent to the property:

Site: Woodland building, zoned R-3/I-1

North: Crestwood assisted living facility and Oak Lea nursing facility, zoned R-3/I-1

East: Across Virginia Avenue, undeveloped parcel and non-conforming dwellings, zoned B-2

South: Across Parkwood Drive, VA Mennonite Conference Center and undeveloped parcel, zoned B-2

West: Single-family dwellings, zoned R-3 and Eastern Mennonite University, zoned R-3/I-1

The applicant is requesting to amend a portion of the Virginia Mennonite Retirement Community (VMRC) master plan. A master plan is needed whenever any parcel, or parcels, in the City are applying to be included in the institutional overlay district. This district allows unique developments for certain nonprofit institutional uses such as colleges and universities, hospitals, offices or nonprofit organizations and community assembly uses and institutions providing for the shelter and care of persons. An approved master plan for development may include uses which do not meet dimensional or parking requirements. Every request for an institutional overlay requires the submission of an accompanying master plan to show how the development will occur. Subsequent changes to the approved master plan are accomplished by the same procedure.

VMRC is a 46.2 +/- acre property comprised of three subsidiaries; Park Village, Inc., Heritage Haven Inc, and Virginia Mennonite Home, Inc. An institutional overlay master plan for the original 45 +/- acre tract of VMRC was approved in March 1997. In June 2004, an addition was made to the 1997 plan when 1.2 +/- acres along Park Road was added to the Park Village, Inc. subsidiary of VMRC. With the current request, the applicant would like to modify the allowable uses for the Woodland facility, a 3.5 acre parcel located at 1301 Virginia Avenue, which was approved as part of the original master plan.

The Woodland facility was designated as a home for adults on the 1997 VMRC master plan. The intent was to continue using Woodland until the proposed Adult Care Residence (Crestwood) was available for occupancy, which occurred in November 1999. Although a new usage for the Woodland facility was never specified within the approved master plan, it has been used by Pleasant View for a day program, by Woodland Montessori School, offices for several nonprofit organizations, and student housing. Earlier this year, planning staff was approached by Harrisonburg Rockingham Child Day Care Center about relocating their facility to the Woodland building. Child day care centers are permitted uses within the underlying R-3 zoning classification; however, the site would be short of the required number of parking spaces necessary for this type of use. Also, because the approved master plan designated the Woodland building for an adult home, staff informed them that an amendment would need to be made to the plan. If the amendment is approved, it would alleviate the parking issue as well as update the master plan for this facility; an undertaking that should have been initiated after the home for adults was removed and before subsequent uses were utilized.

The Woodland building is a two-story brick structure of approximately 34,500 square feet. Harrisonburg Rockingham Child Day Care Center would occupy 15,504 square feet of the building. Currently, there are 25 parking spaces located in front of the Woodland facility, and staff has counted an additional 27 spaces within 300 feet of the building that are available for use by the day care center or other future occupants of the building. Behind the building is an area that could be utilized as parking; however, the parking spaces are not marked, which would be a requirement prior to making use of it as parking. The Zoning Ordinance does not have a specified parking ratio for child day care centers; therefore, parking requirements are calculated at the retail ratio; a rate that staff often believes is too stringent for this type of use. If this building was not part of a master plan, the proposed day care center at this location would be required to provide one parking space for every 250 square feet of gross floor area; for a total of 63 parking spaces. VMRC is also requesting to allow the building to be used for rental offices and student housing and although offices and housing are not currently planned in conjunction with the child day care center, if approved, the building could accommodate all three at the same time. The existing 52 parking spaces falls short of the parking requirements whether the day care alone is occupying the building

or if multiple uses are in operation; but staff feels parking should not be an issue in this particular situation.

VMRC has also discussed with planning staff that the long range plans for this portion of their facility include the demolition of the Woodland facility and construction of several new buildings, creating a new, livable community for VMRC residents. The child day care center would then be incorporated into another area of VMRC. Staff has informed them that this would require another amendment to the master plan for this complex.

Staff supports the request for amendment to this portion of the master plan and feels the parking is sufficient for the proposed uses.

Chairman Burden asked if there were any questions for staff. Hearing none, he opened the public hearing and asked the applicant or applicant's representative to speak.

Mr. Marvin Nisley, Vice President of Design and Construction at VMRC, said he wants to thank Planning Commission for considering this request and thanks to the staff for working with us on this. At first you may not think it makes much sense to have a child day care at a retirement community; but, as you think about it and the possibilities of inter-generational activity, it does make sense. We really do support this concept of the day care and look forward to working with the Harrisonburg Rockingham Child Day Care Center on this project. This is a temporary arrangement, but we think it is good for two to three years at least. As staff indicated we do have other plans for this site in the future, and we will be talking with you about that whenever that occurs. This building does not meet our long term needs, but it does seem like it could meet the day care's needs for the short term. VMRC does not anticipate renting out office space, it has happened in the past, and if it should happen again, it would be strictly for non-profit. The student housing that has occurred here was an arrangement with EMU, it was primarily exchange students. This could come up again; however it is not likely. If it does happen, they would not have automobiles, and would not be needing parking spaces. We welcome this relationship and feel it has long term potential.

Chairman Burden asked what type of refurbishment does the building need.

Mr. Nisley replied he would let the day care center folks respond to that question. The building has been empty for a while, but it is my understanding that it will require minimal work.

Chairman Burden asked if there were other questions for Mr. Nisley. Hearing none, he asked if there was anyone with the Harrisonburg Rockingham Child Day Care Center that wished to speak.

Mr. Dennis Durost, President of the Board of Directors for the Harrisonburg Rockingham Child Day Care Center, said this non-profit day care center has served the community for 38 years. Currently, we need to find a new space and we are excited about this invitation with VMRC to temporarily occupy this space. We have begun conversations with VMRC about a more permanent relationship, and have even taken a field trip to a facility like this in Richmond. For the question about what needs to be done, we have our construction manager here if you would like to ask specific questions.

Chairman Burden said he was curious to what improvements would be made to the building. We were not inside of the building, but the outside appeared to require some refurbishing.

Mr. Durost replied we have done multiple assessments to determine what is most usable in the building. If you notice we have eliminated one whole side of the building, which we will wall off and make it totally un-accessible. We are focusing on the rooms that are easiest to fix up; these are rooms that we will just need to paint and make child friendly.

Chairman Burden thanked Mr. Durost and asked if there were any further questions.

Mr. Da'Mes said parking was brought up and enrollment numbers are relevant to that; what is the total number of children served.

Mr. Durost responded that the current facility is licensed for 105 children, we would like to accommodate up to 120 children in the new space; but that would be based on how much of this facility we can actually manipulate for licensing to determine the number of children. We have approximately 94 children enrolled at this time.

Mr. Da'Mes asked what the hours of operation are.

Mr. Durost said 6 a.m. to 6 p.m.

Chairman Burden asked if there were any further questions. Hearing none, he asked if there was anyone else wishing to speak in favor of the amendment. Hearing none, he asked if there was anyone wishing to speak in opposition of the request. Hearing none, he closed the public hearing and asked Planning Commission for discussion.

Mr. Chenault said it is very exciting that the Harrisonburg Rockingham Child Day Care Center has found a new home. I personally do not see parking as an issue; with these types of facilities, parking really comes and goes at a rather random basis and not all at one time. There is certainly a lot of available parking in that area if additional is needed. I move to recommend approval of the VMRC Master Plan changes as presented.

Mr. Baugh seconded the motion.

All voted in favor of the motion (6-0) to recommend approval.

Chairman Burden said this will move forward to City Council on July 14th.

Public Input

None.

Report of secretary and committees

Mrs. Banks said the exit 243 sector of the City was targeted by the zoning inspectors this month. One violation, an inoperable vehicle, was found. This is actually an increase from the last cycle in which no violations were noted. Next month you can look for the inspectors in the Fairway Hills section of the City.

Mr. Snell asked how the City inspectors determine if a vehicle is inoperable.

Mrs. Banks said an inoperable vehicle is defined in the Zoning Ordinance as any vehicle on which the license or inspection has expired by more than 30 days, or one that it is not operable on public streets. It may have a valid tag and inspection but if the tires are removed, we also consider it to be inoperable.

Mr. Baugh said City Council approved everything that Planning Commission moved forward; a Special Use Permit on Waterman Drive, an alley closing along Willow Street, and the home occupation amendment.

Other Matters

Mr. Da'Mes said one of the conditions for the major family day home on Blue Ridge Drive was that the landscaping within the island area be reduced to a certain level. I notice it has not been done yet, is there a specific time period they have to do so.

Mr. Fletcher replied he saw this too, and it is up for interpretation. The way the condition was written was vague. We said low lying brush to help clear visibility. We could probably give them 30 days in which to trim the brush. I do believe they trimmed it.

Mr. Da'Mes said they did trim the bottoms. Also, the lights have not been changed.

Mr. Fletcher said he did contact Public Works about the lights and they have not returned the call.

Adjournment

The meeting was adjourned at 8:15 p.m.

Chairman Jared Burden

Secretary, Alison Banks